

REMARKS

Claims 6 – 20 continue to be in the case.

Claims 1 to 5 are being cancelled.

New claims 21 to 25 are being introduced.

New claim 21 is based on the language of claim 7.

New claim 22 is based on the language of claim 8.

New claim 23 is based on the language of claim 11.

New claim 24 is based on the language of claim 8.

New claim 25 is based on the language of claim 11.

Claim 6 is being amended by introducing language from claims 5 and 10.

Claim 9 is being amended by introducing language from claims 5 and 6.

The Office Action refers to Claim Rejections - 35 USC § 103.

2. Claims 1-8 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (5,449,079) in view of Jury (5,941,391). Yang discloses the limitations of the claims including a cover (figs. 1-7) comprising a shell (2) spherical projection with cylindrical cavity (200), openings (202), valve head (23), circular plate with triangular edge (annular extending portion of valve 23), gasket (240), pin (231), bonnet (21) with ribs (upwards extending portion of bonnet 21). Yang excludes a cylindrical stem moveably supported in an opening, a sleeve with flange and an elliptical outline. Jury teaches a cylindrical stem moveably supported in an opening a sleeve with distancing projections/rib thereby creating a vacuum sealed valve construction. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify

Yang with the aforementioned structural features in order to provide an alternate vacuum sealed valve construction.

Regarding the elliptical outline, Yang excludes what would have been obvious to one of ordinary skill in the art at the time of invention, having an elliptical outline pointed towards the inside of the container in order to facilitate design choice and add an aesthetic element to the container cover. Moreover, a change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. A Change in aesthetic (ornamental) design generally will not support patentability. *In re Seid*, 73 USPQ 431.

The present amendment cancels claims 1 to 5. Amended claim 6 now contains allowable subject matter from claim 10 and is presented in independent form to make claim 6 fully allowable. Claim 7 depends on claim 6 and allowability of claim 6 should also render claim 7 allowable. Claims 8 and 11 are amended to depend on allowable claim 6.

The Office Action refers to Allowable Subject Matter.

3. Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant sincerely appreciates the finding of allowable subject matter in claims 9 and 10. The present amendment rewrites claim 9 to put it into independent form. The present amendment further incorporates the language from claim 10 into claim 6 and renders claim 6 thereby allowable.

4. Claims 12-20 are allowed.

Applicant very much appreciates the allowance of claims 12 to 20.

Reconsideration of all pending and unallowed claims is respectfully requested.

All claims 6 to 25 presently submitted are deemed to be in form for allowance and an early notice of allowance is earnestly solicited.

Respectfully submitted,

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